

**House File 2391 - Introduced**

HOUSE FILE 2391

BY KAJTAZOVIC

**A BILL FOR**

1 An Act concerning the utilization of energy by authorizing  
2 the establishment of an energy finance program to finance  
3 certain energy improvements, and providing civil penalties.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.441, subsection 2, paragraph b, Code  
2 2014, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (20) The establishment or funding of  
4 an energy finance program to finance energy improvements in a  
5 county pursuant to chapter 385.

6 Sec. 2. Section 384.24, subsection 3, Code 2014, is amended  
7 by adding the following new paragraph:

8 NEW PARAGRAPH. y. The establishment or funding of an energy  
9 finance program to finance energy improvements within a city  
10 pursuant to chapter 385.

11 Sec. 3. NEW SECTION. 385.1 **Legislative findings — purpose.**

12 The general assembly finds all of the following:

13 1. Renewable energy production and energy efficiency  
14 improvements to residential, commercial, and industrial real  
15 property, are necessary to address the issue of energy bill  
16 stabilization.

17 2. The initial investment required to make residential,  
18 commercial, or industrial real property more energy-efficient  
19 or to utilize renewable energy prevents many property owners  
20 from making such improvements. To make energy improvements  
21 more affordable and to promote their installation, it is  
22 necessary to authorize an alternative procedure for owners of a  
23 residence or business to finance such improvements.

24 3. The general assembly declares that a public purpose  
25 shall be served by authorizing cities and counties to establish  
26 energy finance programs and authorizing the governing body  
27 of any city or county to assist property owners in financing  
28 the installation of renewable energy improvements and energy  
29 efficiency improvements by offering financial terms that are  
30 beneficial to the property owner.

31 Sec. 4. NEW SECTION. 385.2 **Definitions.**

32 As used in this chapter, unless the context otherwise  
33 requires:

34 1. “*Authority*” means the economic development authority  
35 created in section 15.105.

1     2. "*Energy analysis*" means a written report summarizing the  
2 results of a physical inspection of a residential, commercial,  
3 or industrial building conducted by a public utility or other  
4 agency or entity approved by the authority. The report shall  
5 document deficiencies in energy efficiency operation and  
6 recommend specified energy improvements.

7     3. "*Energy improvement*" means the installation of one  
8 or more appliances or heating and cooling systems, physical  
9 alteration to a building, or installation of a renewable energy  
10 production facility that has been identified in an energy  
11 analysis as improving the energy-efficient operation of a  
12 building or as decreasing the amount of energy consumed by that  
13 building, or both.

14     Sec. 5. NEW SECTION.   385.3   Energy finance program  
15 established.

16     1. A city or county may adopt an ordinance establishing an  
17 energy finance program in order to allow the city or county  
18 to offer to assess to residential, commercial, or industrial  
19 property within the city or county the cost of purchasing or  
20 installing energy improvements. The authority shall advise  
21 cities and counties in administering the program.

22     2. An energy finance program shall be limited to energy  
23 improvements that will be permanently affixed to real property  
24 that has already been developed or upon which buildings have  
25 already been constructed. Property owners participating in the  
26 program may receive funding for the improvements in advance  
27 of installation, or as a reimbursement of amounts expended by  
28 the property owner for completed installations. However, the  
29 amount advanced or reimbursed shall not exceed the total amount  
30 identified in the petition submitted by the property owner  
31 pursuant to section 385.6.

32     3. Petitions for participation in an energy finance program  
33 adopted by a city or county may be submitted, considered,  
34 and approved or denied either individually or aggregated by  
35 neighborhood, district, region, or other basis.

1     Sec. 6. NEW SECTION.   **385.4 Resolution of intent.**

2     1. The governing body of a city or county may not consider  
3 an ordinance establishing an energy finance program until  
4 after the governing body has adopted a resolution of intent  
5 indicating or including the following:

6     *a.* That the city or county considers it in the public  
7 interest to finance the installation of energy improvements.

8     *b.* That the city or county proposes to make special  
9 assessment financing or other financing available to property  
10 owners seeking to install or make energy improvements.

11    *c.* A nonexclusive list of examples of energy improvements  
12 which may be included in the proposed ordinance and financed  
13 pursuant to the program.

14    *d.* A brief description of the proposed arrangements for  
15 financing the program.

16    2. The city or county shall hold a public hearing on the  
17 resolution at which interested persons may inquire about or  
18 object to the proposed program. Notice of the hearing shall  
19 be published as provided in section 331.305 or 362.3, as  
20 applicable.

21    Sec. 7. NEW SECTION.   **385.5 Program requirements —**  
22 **ordinance.**

23    1. An ordinance establishing an energy finance program  
24 shall include the following regarding implementation of the  
25 program:

26    *a.* A schedule for packaging assessments for program finance  
27 purposes and city council or board of supervisors approval.

28    *b.* A method for prioritizing approved applications in the  
29 event the number of applications received for a year exceeds  
30 program funds.

31    *c.* Energy analysis requirements.

32    2. After adoption of an ordinance establishing an energy  
33 finance program, a plan for raising a capital amount required  
34 to pay for work performed pursuant to contractual assessments  
35 shall be established by a city or county. A city or county

1 shall be authorized to advance funds available to it from any  
2 source, including the sale of bonds as provided in section  
3 385.11 and in section 331.441 or 384.24, as applicable. The  
4 plan shall specify the source of financing contemplated by the  
5 city or county. The plan shall also provide for a reserve  
6 fund and for apportionment of all or any portion of the costs  
7 incidental to financing, administration, and collection of the  
8 special assessments between or among property owners and the  
9 city or county.

10 3. The ordinance establishing an energy finance program  
11 shall provide for the establishment of an energy finance  
12 program fund into which bond proceeds and other funds to be  
13 utilized in administering the program shall be deposited.

14 4. If a county has adopted a countywide ordinance, a city  
15 cannot adopt an ordinance establishing an energy finance  
16 program applicable to that portion of the city located  
17 within the county. If a county has not adopted a countywide  
18 ordinance, a city adopting an ordinance may include an area  
19 extending up to two miles distance from the city's boundaries.

20 Sec. 8. NEW SECTION. 385.6 **Petition by property owners.**

21 1. The authority shall develop and make available to a  
22 city or county that has established an energy finance program  
23 petitions for distribution to prospective program participants.

24 2. Program participation shall be initiated solely by  
25 petition of the property owner, or by a representative of  
26 several related or adjoining lots or parcels who has obtained  
27 written permission and a copy of an energy analysis from each  
28 owner. If a property is in the name of more than one owner, the  
29 petition shall be signed by each owner.

30 3. The petition shall state that a copy of a completed  
31 energy analysis shall be required for participation in the  
32 program and must be attached to the petition. The petition  
33 shall contain space for the printed name, signature, and  
34 address of the petitioner. For each petitioner, the petition  
35 shall contain space for identification of energy improvements

1 identified in the energy analysis for which energy finance  
2 program financing is sought, a cost estimate for each  
3 improvement so identified, and a proposed time frame within  
4 which the improvements shall be undertaken and completed.

5 4. Within thirty days following submission of a petition  
6 and accompanying energy analysis, a petitioner shall receive  
7 notification from the city or county of approval pending  
8 adoption of a resolution pursuant to section 385.7 by the city  
9 council or county board of supervisors, or of denial of the  
10 petition. Following adoption of a resolution, an approved  
11 petitioner shall receive notification from the city or county  
12 regarding funding amounts, authorization to purchase directly  
13 any equipment and materials for the installation of energy  
14 improvements and to contract directly for such installation,  
15 and verification requirements regarding completion of  
16 improvements.

17 5. Special assessments for energy improvements shall be  
18 levied only upon the free and willing consent of the owner of  
19 each lot or parcel on which an assessment is levied at the time  
20 of levy.

21 Sec. 9. NEW SECTION. 385.7 Resolution and filing.

22 1. Approved petitions, whether submitted on an individual  
23 or aggregate basis, shall be grouped either by date of approval  
24 or property location, identified by legal description, and  
25 submitted to a city council or county board of supervisors in  
26 the form of a resolution for approval by majority vote.

27 2. An adopted resolution shall be forwarded to the city  
28 clerk, or the county auditor in the case of a county, along  
29 with a schedule including a description and parcel number of  
30 each lot, the name of the property owner, and the total amount  
31 to be assessed to each lot. In counties in which taxes are  
32 collected in two or more places, certification shall be to the  
33 office of county treasurer where the special assessments are  
34 collected. The county treasurer shall preserve the resolution  
35 and schedule as a part of the records of the office until the

1 city clerk or county auditor certifies the final assessment  
2 schedule as provided in section 385.8 or certifies that the  
3 petition has been abandoned.

4     Sec. 10. NEW SECTION.   **385.8 Adoption of schedule.**

5     1. Within ten days after filing of the resolution and  
6 schedule pursuant to section 385.7, a city council or county  
7 board of supervisors shall meet, consider, and adopt or amend  
8 and adopt, by resolution, a final assessment schedule. The  
9 resolution must:

10     *a.* Confirm and levy assessments.

11     *b.* State the number of annual installments, not exceeding  
12 fifteen, into which assessments of more than five hundred  
13 dollars are divided.

14     *c.* Provide for interest on all unpaid installments at a rate  
15 not exceeding that permitted by chapter 74A.

16     *d.* State the time when assessments are payable.

17     *e.* Direct the city clerk or county auditor, as appropriate,  
18 to certify the final schedule to the treasurer of each county  
19 in which the assessed property is located.

20     2. The city clerk or county auditor shall send written  
21 notice by regular mail to each property owner whose petition  
22 has been approved and whose property has been included on the  
23 schedule. The notice shall contain all the information and  
24 statements required to be included in notices under section  
25 384.60, subsection 2.

26     3. The county treasurer shall enter on the county system the  
27 amounts to be assessed against each lot, as certified.

28     Sec. 11. NEW SECTION.   **385.9 Installments due — lien**  
29 **created.**

30     1. Special assessments levied by a city or county pursuant  
31 to this chapter shall be levied and collected in the same  
32 manner as provided in section 384.65 for public improvement  
33 special assessments levied by a city.

34     2. From the date of filing of certification of the  
35 resolution and schedule pursuant to section 385.7, the special

1 assessments with all interest become and remain a lien on the  
2 benefited property until paid, and have equal precedence with  
3 ordinary taxes, and are not divested by any judicial sale.

4     Sec. 12. NEW SECTION.   **385.10 Payment to county treasurer.**

5     Assessments levied and certified under this chapter,  
6 including installments and interest, are payable at the office  
7 of the county treasurer of the county where the property  
8 assessed is located, except that assessments may be paid  
9 in full or in part and without interest within thirty days  
10 after the date of certification, at the office of the county  
11 treasurer, if the property being assessed is located in an  
12 unincorporated area, or the city clerk, if the property being  
13 assessed is located in an incorporated area.

14     Sec. 13. NEW SECTION.   **385.11 Bonds issued.**

15     1. After certification of the final assessment schedule, a  
16 city or county may, by resolution, authorize and issue bonds in  
17 anticipation of the collection of unpaid special assessments.  
18 However, the total principal amount of bonds issued may not  
19 exceed the total amount of unpaid special assessments.

20     2. All special assessment bonds are negotiable, must state  
21 on their face that they are issued under the provisions of this  
22 chapter, and are payable as to both principal and interest from  
23 the proceeds of the special assessments. Such bonds may bear  
24 interest at a rate not exceeding that permitted by chapter  
25 74A payable annually or semiannually, must mature serially  
26 on December 1 of the years in which any of the principal is  
27 scheduled to become due, and may contain a provision that the  
28 city or county reserves the right and option of calling and  
29 redeeming any or all of the bonds prior to maturity on any  
30 interest payment date or within forty-five days thereafter  
31 upon the terms specified therein. Such bonds must be called  
32 "improvement bonds", must designate the general type of  
33 improvement or improvements for which issued, and may be issued  
34 in any denomination. The bonds must be named in a way to  
35 distinguish them from other improvement bonds of the city or

1 county, and to designate the property specially assessed for  
2 the improvement. Improvement bonds issued for any one levy  
3 must bear the same date and be divided into as many series as  
4 there are years in which installments of the special assessment  
5 mature, and each series must be as nearly equal in amount as  
6 practicable.

7 3. The proceeds of the special assessments and interest  
8 collected thereon must be used and applied by the city or  
9 county to the payment of the interest on the bonds and to  
10 the retirement of the principal as rapidly as proceeds are  
11 collected. Such bonds and coupons do not make the city or  
12 county liable in any way, except for the proper application of  
13 special assessments. If interest becomes due on any of the  
14 bonds when there is no fund from which to pay it, the council  
15 or board of supervisors may make a temporary loan for payment  
16 of the interest, which loan must be repaid from the special  
17 assessments and interest pledged to secure the bonds, but in  
18 case of purchase by the city or county at tax sale of the  
19 property on which a special assessment under this chapter is  
20 levied, from the general fund.

21 4. Special assessment bonds issued under this section  
22 must be sold at public or private sale in the manner provided  
23 by chapter 75, and may not be sold for less than par value  
24 with accrued interest from date to the time of delivery. The  
25 proceeds of the sale must be applied to the payment of the  
26 cost of financing the energy improvements approved under this  
27 chapter.

28 5. Any excess of proceeds from special assessments  
29 remaining after all of the bonds have been paid with interest  
30 may be credited to the energy finance program fund established  
31 pursuant to ordinance or returned to the applicable property  
32 owners on a proportionate basis.

33 6. Cities or counties may issue refunding bonds to pay off  
34 and take up special assessment bonds issued pursuant to this  
35 chapter, or to refund any part thereof, as follows:

1     *a.* Refunding bonds must substantially conform to the  
2 provisions of this chapter, and the face value is limited to  
3 the amount of the unpaid special assessments with the interest  
4 thereon of the particular issue of bonds to be refunded.

5     *b.* Refunding bonds or their proceeds may be used only to pay  
6 improvement bonds taken up.

7     *c.* The expense of refunding bonds must be paid out of the  
8 energy finance program fund of the city or county.

9     *d.* When refunding bonds are issued to pay improvement  
10 bonds, all special assessments and sinking funds applicable to  
11 the payment of the improvement bonds previously issued must  
12 be applied in the same manner and to the same extent to the  
13 payment of the refunding bonds, and all the powers and duties  
14 to levy and to carry special assessments and taxes, to create  
15 liens upon property, and to establish sinking funds in respect  
16 to the bonds previously issued continue until refunding bonds  
17 are paid.

18     *e.* The city or county shall collect the special assessment  
19 out of which the refunding bonds are payable and hold the  
20 proceeds in trust for the payment of the refunding bonds, but  
21 it is not liable except for the proper application of the  
22 assessments.

23     7. No action shall be brought questioning the legality  
24 of the bonds authorized by this section from and after sixty  
25 days from the date the bonds are ordered issued by the city or  
26 county.

27     Sec. 14. NEW SECTION. 385.12 Verification — penalty.

28     1. The authority shall determine an inspection procedure to  
29 be utilized by a city or county upon completion of an energy  
30 improvement financed pursuant to the energy finance program.

31     2. The city council or board of supervisors may impose a  
32 civil penalty against a property owner for failure to complete  
33 an energy improvement for which a petition was submitted by the  
34 property owner and approved and financing was received. The  
35 penalty may be in an amount up to but not exceeding the amount

1 of financing received.

2 Sec. 15. NEW SECTION. 385.13 Report.

3 The results of the program including but not limited to the  
4 number of petitions received, the number of petitions approved,  
5 types of energy improvements for which special assessments  
6 are sought, and average special assessment size, shall be  
7 submitted by a city or county participating in the program to  
8 the authority by December 1 annually. The authority shall make  
9 available on its internet site all information received under  
10 this subsection.

11 Sec. 16. Section 403.19, subsection 2, paragraph a, Code  
12 2014, is amended to read as follows:

13 a. That portion of the taxes each year in excess of such  
14 amount shall be allocated to and when collected be paid into a  
15 special fund of the municipality to pay the principal of and  
16 interest on loans, moneys advanced to, or indebtedness, whether  
17 funded, refunded, assumed, or otherwise, including bonds  
18 issued under the authority of section 403.9, subsection 1,  
19 incurred by the municipality to finance or refinance, in whole  
20 or in part, an urban renewal project within the area, and to  
21 provide assistance for low and moderate income family housing  
22 as provided in section 403.22, and to provide funding for an  
23 energy finance program adopted pursuant to chapter 385 with  
24 regard to property within the urban renewal area. However,  
25 except as provided in paragraph "b", taxes for the regular and  
26 voter-approved physical plant and equipment levy of a school  
27 district imposed pursuant to section 298.2 and taxes for the  
28 instructional support program of a school district imposed  
29 pursuant to section 257.19, taxes for the payment of bonds  
30 and interest of each taxing district, and taxes imposed under  
31 section 346.27, subsection 22, related to joint county-city  
32 buildings shall be collected against all taxable property  
33 within the taxing district without limitation by the provisions  
34 of this subsection.

35

EXPLANATION

1           The inclusion of this explanation does not constitute agreement with  
2           the explanation's substance by the members of the general assembly.

3       This bill authorizes cities and counties to establish an  
4 energy finance program to finance energy improvements for the  
5 benefit of property owners within the city or county.

6       The bill defines an "energy improvement" as the installation  
7 of one or more appliances or heating and cooling systems,  
8 physical alteration to a building, or installation of a  
9 renewable energy production facility which has been identified  
10 in an energy analysis as improving the energy-efficient  
11 operation of a building or as decreasing the amount of energy  
12 consumed by that building, or both. The bill defines an  
13 "energy analysis" as a written report summarizing the results  
14 of a physical inspection of a residential, commercial, or  
15 industrial building conducted by a public utility or other  
16 agency or entity approved by the economic development authority  
17 documenting deficiencies in energy efficiency operation and  
18 recommending specified energy improvements.

19       Pursuant to the program, a city or county may offer to  
20 assess to residential, commercial, or industrial property  
21 within the city or county the cost of purchasing or installing  
22 energy improvements. The economic development authority  
23 shall serve in an advisory capacity. The bill states that  
24 the program shall be limited to energy improvements that will  
25 be permanently affixed to real property which has already  
26 been developed or upon which buildings have already been  
27 constructed, and that property owners participating in the  
28 program may receive advance funding for the improvements or  
29 reimbursement after the fact.

30       The bill provides that the governing body of a city or county  
31 initiates participation in the program by adopting a resolution  
32 of intent indicating that it is in the public interest to  
33 finance the installation of energy improvements, that special  
34 assessment financing or other financing shall be available to  
35 property owners, examples of energy improvements which may be

1 financed and a brief description of financing arrangements.  
2 The bill provides for notice regarding the time and place of a  
3 public hearing on the resolution.

4 The bill directs a city or county wishing to establish  
5 an energy finance program to adopt an ordinance which  
6 shall include a schedule for packaging assessments for  
7 program finance purposes and city council or county board  
8 of supervisors approval, a method for prioritizing approved  
9 applications, and energy analysis requirements. After adoption  
10 of the ordinance, the city or county is also directed to  
11 establish a plan for raising the capital to pay for work  
12 performed pursuant to the special assessments and shall be  
13 authorized to advance funds available to it from any source.  
14 The bill states that if a county has adopted a countywide  
15 ordinance, a city cannot adopt an ordinance in that portion of  
16 the city located within the county.

17 The bill provides that the authority shall develop petitions  
18 for use by property owners applying for the program, informing  
19 the property owner of the need to complete an energy analysis,  
20 containing space for property owner identifying information and  
21 for a listing of energy improvements and cost estimates for  
22 which a special assessment is sought, and requesting a proposed  
23 time frame within which the improvements shall be undertaken  
24 and completed. Program participation shall be initiated solely  
25 by petition of the property owner or by a representative of  
26 several related or adjoining lots or parcels who has obtained  
27 written permission, a petition signature, and a copy of an  
28 energy analysis from each owner. The bill provides that within  
29 30 days following submission of a petition and accompanying  
30 energy analysis, a petitioner shall receive notification  
31 from the city or county of approval or denial, and that if  
32 approved the petitioner shall receive subsequent notification  
33 regarding funding amounts, authorization to purchase directly  
34 any equipment and materials for the installation of energy  
35 improvements and to contract directly for such installation,

1 and verification requirements regarding completion of  
2 improvements.

3     The bill provides that approved petitions, whether submitted  
4 on an individual or aggregate basis, shall be grouped either  
5 by date of approval or property location, identified by legal  
6 description, and submitted to a city council or county board  
7 of supervisors in the form of a resolution for approval by  
8 majority vote. The bill directs a city council or county board  
9 of supervisors to forward an approved resolution to the city  
10 clerk or county auditor, as applicable, along with a schedule  
11 including a description and parcel number of each lot, the name  
12 of the property owner, the valuation of each lot as determined  
13 by the council, and the total amount proposed to be assessed  
14 to each lot.

15     The bill then specifies procedures for adoption of the  
16 schedule by the city council or county board of supervisors,  
17 certification to the county treasurer, and property owner  
18 notification provisions. The bill provides that the special  
19 assessments shall be levied and collected in the same manner as  
20 provided in Code section 384.65 for public improvement special  
21 assessments levied by a city. Bonding provisions are set forth  
22 which closely correspond to provisions applicable to special  
23 assessment bonds authorized in Code section 384.68.

24     The bill authorizes utilization of tax increment financing  
25 moneys to fund special assessments under the program  
26 for property in an urban renewal area, and includes the  
27 establishment of the energy finance program within the  
28 definition of "essential corporate purpose" and "essential  
29 county purpose" contained in Code chapters 384 and 331,  
30 respectively, and applicable to the issuance of general  
31 obligation bonds.

32     The bill requires the economic development authority to  
33 determine an inspection procedure to verify completion of an  
34 energy improvement financed pursuant to the program. The  
35 authority is also required to make available on its internet

1 site the results of the program based upon information  
2 required to be submitted on an annual basis by a city or county  
3 participating in the program.

4     The bill provides that a city or county may impose a civil  
5 penalty in an amount not to exceed the amount financed for  
6 failure to complete an energy improvement for which a petition  
7 was submitted and approved and financing was received.